

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department – Revision Petitions filed before the Government under Regulation 1/1959 as amended by Regulation 1/1970 – Revision Petition filed U/s. 6 of APSALTR by Smt. Theerthala Ratnamma W/o Venkateswarlu R/o Mucherla village of Kamepalli Mandal, Khammam District against the orders of the Addl.Agent to Govt. & PO ITDA Bhadrachalam in CMA No.28/2016, dt. 24.3.2020 – Allowed – Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No.51

Dated: 28-06-2021,
Read the following:-

1. Revision Petition filed by Sri Theerthala Ratnamma, W/o. Venkateswarlu, R/o. H.No: 1-39, Mucherla (V), Kamepally (M), Khammam District, Endt.No.756/M(STW,W&CW), dt.12.06.2020.
2. Govt.Memo No.560/TW.LTR/2020, dt:14.07.2020.
3. Order received from the Asst. Registrar, High Court for the State of Telangana, IA No. 1 of 2020 in WP.No. 11578 of 2020, dated. 06.08.2020.
4. Letter received from the PO, ITDA & AAG Bhadrachalam, Rc.No.A5/225/LTR/2020 (CMA.No. 28/2016), Dated 17.08.2020
5. Govt. Memo.No.560/TW.LTR/2020. Dt: 14.09.2020
6. Order received from the Asst. Registrar, High Court for the State of Telangana in WP.No. 9174 of 2020, dated. 26.06.2020.
7. Govt. Memo.No.560/TW.LTR/2020. Dt: 21.09.2020.
8. Govt. Memo.No.560/TW.LTR/2020. Dt: 08.01.2021.
9. Govt. Notice.No.560/TW.LTR/2020. Dt: 08.01.2021.
10. Letter Rc.No.A3/117/2021/LTR received from the AAG & PO, ITDA Bhadrachalam, Dated 22.01.2021.
11. Written Arguments by Counsel Sri P.V.Ramana on behalf of the Revision Petitioner on 08.02.2021.

ORDER

In the reference 1st read above, Smt. Theerthala Ratnamma W/o Venkateswarlu R/o Mucherla village of Kamepalli Mandal, Khammam District has filed the present Revision Petition U/s.6A of the LT Regulation I of 1959 as amended by Regulation I of 1970 against the orders dt.24.3.2020 of the Addl. Agent to Government & Project Officer, ITDA, Bhadrachalam in CMA No.28/2006 in respect of land admeasuring Acs.6.38 gts in Sy.No.57/A and Acs.8.22 gts in Sy.No.58 (Total extent Acs.15.20 gts) situated in Mucharla village of Kamepalli Mandal, Khammam District.

2. The case was called on 23.1.2021. Counsel for Petitioner Sri P.V.Ramana and Sri K.Narasimha Rao, Dy.Tahsildar, Kamepalli Mandal were present. Perused pahanies produced by Dy.Tahsildar. Counsel prayed for time for submission of written arguments. 2 weeks time granted. Counsel submitted written arguments on 8.2.2021 in the reference 11th cited.

3. The history of the case is as follows:

4. The Agency Divisional Officer, Kothagudem was registered LTR case No.3/2014/Kmpl basing on suo-moto enquiry with the particulars of village records of Mucharla village of Kamepalli Mandal, Kothagudem Revenue Division of Khammam District against Smt.Theerthala Rathnamma W/o Venkateswarlu R/o Mucharla village of Kamepalli Mandal as Respondent/Occupant (NT) and Sri Siripurapu Chandraiah S/o Seethaiah

(Contd..2)

R/o Mucharla village of Kamepalli Mandal as Seller (NT) in the court of the Agency Divisional Officer, Kothagudem. Notices in Form-E as required under 7 (1) and 7 (22) of APSA Land Transfer Rules, 1969 were issued to both seller and respondent directing to show cause as to why respondent/occupant should not be ejected from the land. Hearings were conducted on 27.12.2014, 03.01.2015, 24.01.2015, 07.02.2015, 07.03.2015, 18.04.2015, 30.05.2015, 20.06.2015, 29.08.2015, 26.09.2015, 31.10.2015 and finally on 28.11.2015. The seller of the land Siripurapu Chandraiah (NT) was absent. Tahsildar, Kamepalli certified on the notice issued for service that Siripurapu Chandraiah was died and his family members were also not residing in the village. Son of the respondent Smt.Theerthala Rathnamma along with their counsel present and filed counter as gisted below:

- Respondent is non-tribal and eke-out his livelihood by doing agricultural – the schedule land is the only source of income to his entire family.
- Respondent purchased the schedule property on 22.05.1968 through a sada sale deed from its owner and possessor Siripurapu Chandraiah who is also non-tribal, for a sale consideration of Rs.3,000/- in total which was prevailing at that time. Immediately possession was handed over to him. He cleared lot of bushes, thorns and boulders with great difficulty and brought it into cultivation by spending lot of money and sweat to make the land amenable for cultivation – accordingly land is under cultivation since 1968.
- The purchase of land from a non-tribal in the year 1968 i.e. much prior to coming into force of amendment 1/70 – as such transaction not hit by provisions of APSA LTR 1/59 R/W 1/70.
- Respondent never violated any of the provisions incorporated in LTR Act. His purchase is a valid purchase and supported by valid consideration – there is no complaint or allegation or claim against the land by any person.
- It is well settled principle of law that the transactions between non-tribals which were completed prior to coming into force of the enactment 1/70 are not affected by the LTR Act 1/70; as such his transaction is also a valid transaction.
- The Full Bench of the Hon'ble High Court of Judicature of AP had laid the law that the transactions between non-tribals prior to 1970 are valid and recognized in law, even though they are carried through sada sale deeds, the validity of such sale deeds cannot be questioned while disposing of the matters under the LTR – therefore, the laid down by the Full Bench of the Hon'ble High Court of AP is applicable in his case also.
- Respondent regularly paying cist to the revenue authorities on his name as owner and cultivator in revenue records. His possession over the said land is uninterrupted, undisturbed and undisputed since 1968 onwards.
- Therefore, prayed to drop the LTR proceedings against him else he would suffer irreparable loss.

5. The Agency Divisional Officer, Kothagudem passed orders on 7.5.2016 against the petitioner herein on the following reasons:

- He has filed Xerox copy of sada sale agreement (unregistered sale deed) written on stamp paper worth Rs.1.50 paise in which Theerthala Rathnamma W/o Venkateswarlu has purchased the land to an extent of acs.15.02 gts in Sy.No.57 & 58 of Mucharla village on 22.05.1968 from Siripurapu Chandraiah.
- He has also fixed xerox copies of cist receipts issued on plain paper on 12.12.68 for Sy.No.57, 17.04.70 for Sy.No.58, 24.01.1970 for Sy.No.57, 03.01.71 for Sy.No.57 & 58, 19.03.73 for Sy.No.57 & 58, 05.01.75 for Sy.Nos.57 & 58 and also fixed Xerox copies of printed cist receipts issued for the year 1982-83, 1984-85, 1985-86, 1989-90 to 1993-94.
- On examination of pahani extracts for the years from 1969-70, 1973-74 to 1975-76, 1978-79, 2011-12 & 2015-16 in respect of Sy.No.57/A (ac.13.35 gts) & Sy.No.58 (ac.17.05 gts) of Mucharla village, the name of the respondent Theerthala Rathnamma has not been recorded even as enjoyer upto the year 1973-74 against Sy.No.57/A & 58. Had she really purchased the land in the year 1968 her name would have been recorded in the pahani. However, the name of Theerthala Rathnamma has been incorporated as enjoyer only for the year 1974-75 with different ink & different writing in Sy.No.57/A & Sy.No.58 for Acs.8.23 gts by making tampering in the revenue records and the name of Theerthala Rathnamma has been recorded as enjoyer for the year 1978-79 in Sy.No.57/A for Ac.8.13 gts & in Sy.No.58 for Ac.8.22 gts and name of Theerthala Rathnamma has been recorded as enjoyer for the years 2011-12 & 2015-16 in Sy.No.57/A & 58 for Ac.6.38 gts & 8.22 gts respectively. Thus, it was very clear that the non-tribal respondent had purchased the land after enactment of Regulation I of 1970. The ordinary paper receipts of land revenue have no evidentiary value.
- According to Section 35 of Indian Stamp Act, 1989, a document not affixed with required stamps is not admissible evidence.
- The Hon'ble Supreme Court has held that the immovable property can be legally and lawfully transferred and conveyed only by a registered sale deed of conveyance. Transactions of the nature of General Power of Attorney sales or sale agreements or will transfers do not convey title and do not amount to transfer nor they can be recognized as valid mode of transfer of immovable property (AIR 2012 SCC 206).
- The Hon'ble High Court in CRP No.1087 of 1996 has held that an unregistered sale deed cannot be taken into account while examining the nature of rights under the regulation 1959 read with 1970.
- Hence, the sada sale agreement furnished by the respondent in token of acquisition of land from another non-tribal in the year 1968 is not valid and in violation of Regulation, 1959 read with 1970. As per the Revenue Records, land has been acquired after the advent of Regulation 1970 in the scheduled area.

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- Hence, it is established that the respondent contravened the section 3 (1) of the APSA LTR 1959 r/w APSA LTR 1970 and he came into possession of the land mentioned in the schedule i.e. situated in Mucharla village in Sy.No.57/A & 58 measuring acs.6.38 + 8.22 = total 15.20 acres.

6. Aggrieved by the above orders of the Agency Divisional Officer, Kothagudem, Smt.Theerthala Rathnamma W/o Venkateswarlu aged: 77 years, occ: Cultivation R/o Mucherla village of Kamepalli Mandal, Khammam District had filed an Appeal before the Addl.Agent to Govt. & PO ITDA Bhadrachalam under section 3 (3) (a) (ii) of APSALTR 1959 with the following grounds:

- a) The order dated 07.05.2016 in LTR case No.3/2014/Kmpl passed by the 1st respondent (ADO Kothagudem) is illegal, irregular and contrary to the provisions of APSALTR 1 of 1959 as amended by Regulation 1 of 1970.
- b) 1st Respondent ought to have considered that the appellant is the absolute owner, possessor and enjoyer of agricultural landed property admeasuring Ac.15.20 guntas covered by Survey Nos.57 & 58 situated in Mucherla village, Kamepalli Mandal, Khammam District. The said property was acquired through sada sale deed dated 22.05.1968 for a valid consideration of Rs.3000/- from Respondent No.2 and since the date of purchase of the said lands, the appellant and her family members are in possession and cultivating the same without interruption by anyone at any point of time. Whereas, the 1st respondent ignoring the aforesaid facts, without conducting enquiry passed ejectment order dated 7.5.2016, is illegal and liable to be set-aside.
- c) The 1st respondent failed to consider that the appellant's husband's name i.e. Theerthala Venkateswarlu was entered in the land revenue records i.e. adangal pahanies in the year 1970-71 and appellant's name was entered for the year 1974-75, 1978-79 and thereafter till the year 2015-2016 where it shows that the family members of the appellant's name was shown as possessor of the said lands which is evidenced that the appellant is in possession of the aforesaid lands. Without considering the said facts and ignoring the aforesaid documentary evidence, the 1st respondent passed ejectment order dated 07.05.2016 in LTR No.3/2014/Kmpl in contravention of the provisions of the APSALTR 1 of 1959 as amended by Regulation 1 of 1970 and the said order is liable to be set aside.
- d) The 1st respondent failed to consider the fact that the appellant filed land cist receipts for different years to show that she is paying land cist to the Government for the aforesaid lands. The 1st respondent admitted in his order that the appellant produced land cist receipts for various years and do not express any negative view on the said cist receipts and intentionally ignored the said land cist receipts and passed the ejectment order dated 7.5.2016 without examining the material evidence available on record.
- e) The 1st respondent committed grave illegality in passing order dated

7.5.2016 against the appellant and wrongly presumed that the sada sale deed dated 22.05.1968 is created before the year 1970 is false and untenable. In fact, the appellant purchased the aforesaid landed property in the year 1968 from his vendors much prior to the commencement of the Regulation 1 of 1970. Without considering the aforesaid facts, the 1st respondent without any basis and examination of records, wrongly came to conclusion that the sada sale deed dated 22.05.1968 is created and passed order dated 7.5.2016 is illegal and liable to be set aside and the aforesaid purchase of land do not hit by Regulation 1 of 1959 as amended by Regulation 1 of 1970.

- f) The 1st respondent ought to have considered the settled principles of law that the transactions between non-tribals, which were completed prior to coming into force the commencement of Regulation 1 of 1970 and as such the transactions before Regulation 1 of 1970 is a valid transaction. Unfortunately, the 1st respondent ignoring the settled principles of law, passed ejectment order dated 7.5.2016 in contravention of provisions of LTR 1 of 1959 as amended by Regulation 1 of 1970.
- g) The 1st respondent committed error in not considering the full bench judgement of the Hon'ble High Court of Judicature of Andhra Pradesh where the Hon'ble Court held that the transactions between non-tribals prior to Regulation 1 of 1970 are valid and recognized by law even though any transactions are done through sada sale deeds. Unfortunately, the 1st respondent did not consider settled law laid down by the Hon'ble High Court and wrongly passed ejectment order dated 7.5.2016, is bad in law and liable to be set aside.
- h) The 1st respondent did not conduct proper enquiry before passed the order dated 7.5.2016 in LTR case No.3/2014/Kmpl and did not understand the legislative intent of APSALTR 1 of 1959 as amended by Regulation 1 of 1970.
- i) The impugned order dated 7.5.2016 in LTR case No.3/2014/Kmpl passed by the 1st respondent is illegal, irregular, contrary to the provisions of APSALTR 1 of 1959 as amended Regulation 1 of 1970 and rules framed thereunder. As such, the impugned order is liable to be set aside.
- j) The appellant further humbly submits that she had prima facie title over the aforesaid lands. The appellant have strong case to succeed in the appeal. If the impugned order is allowed to stand, the appellant would suffer irreparable injury and hardship. The balance of convenience is also in favour of appellant. If the impugned order is implemented, it would result in serious miscarriage of justice. Thus, the appellant is constrained to file a petition to suspend operation of impugned order, pending disposal of the main appeal.

7. The appellate authority i.e. Addl. Agent to Govt. Bhadrachalam in CMA No.28/2016 had passed the following orders on 24.3.2020:

- Appellant is claiming the suit scheduled property through sada sale deed dt.22.05.1968 from Siripurapu Chandraiah S/o Seethaiah and inducted into possession on the same date and she filed Xerox copy of alleged sale.

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- Xerox copy of alleged sada sale deed is not acceptable to substantiate evidence U/s.17 (b) of Registration Act.
- The Xerox copies of LR cist receipts filed by the appellant, which does not have credibility, sanctity and value in the eye of law.
- Appellant has not entered into Revenue records before 1970.
- Appellant failed to establish locus standi. Hence, lower court orders are confirmed.

8. In the reference 1st cited, Smt.Theeerthala Ratnamma W/o Venkateswarlu, aged: 80 years, R/o H.No.1-39, Mutcherla Village, Kamepally Mandal, Khammam District has filed the present Revision Petition before the Government under Section 6 of APSALTR 1/59 and its Amendment 1/70 against the orders passed by the Addl. Agent to Government, Bhadrachalam in CMA No.28/2016, dt.24.3.2020 (received on 20.5.2020) and also against orders of the Agency Divisional Officer, Bhadrachalam in LTR case No.3/2014/KMPL dt.7.5.2016 urging the following grounds:

- i) The impugned orders are contrary to law and probabilities of the case.
- ii) Section 3 of the APSALTR 1/59 and its Amendment 1/70 prohibits transfer of immovable property after Regulation came into force. From the said date if any transfer of immovable property taken place in the Scheduled Area after 3.2.1970 by one non-tribe to another non-tribe, the authorities constituted under Regulation Act i.e. Agency Divisional Officer or any other officer authorized can pass orders for ejectment and restore the property to the transferor or his/her heirs by following the procedure. Full Bench of the Hon'ble High Court reported in AIR 1982 AP (1) declared that the authority constituted under the Regulation have no power to initiate LTR proceedings if the transfers taken place prior to 1/70 Regulation. In the instant case, produced sale deed dt.22.5.1968. Though the same is not registered, the question of going into validity of the said beyond the power and jurisdiction of the authorities constituted. In addition to that the land revenue receipts from the date of purchase and pahani copies produced amply establish that the land was purchased prior to the regulation came into force. Failure to consider the said important issue and giving findings based on presumptions and assumptions render the entire orders passed by the primary authority and appellate authority is illegal and arbitrary.
- iii) The Primary and Appellate Authority not conducted enquiry in respect of lands in question independently even to know the facts. Once the petitioner is in possession right from 1968 duly raising agricultural crops, the authorities bound to take the said fact into consideration rather than going on presumptions and assumptions. Therefore, failure to consider the evidences placed before the authority is fatal to the impugned orders.
- iv) The finding given by the lower court that unregistered document cannot be given any weightage and totally illegal. As per

definition under Section 2 of 1/59 the word "transfer" includes agreement of sale, therefore any dealing with immovable property either by sale or otherwise which includes unregistered sale is one of the recognized mode and therefore, since the sale deed is very much prior to commencement of regulation the entire orders passed by both the authorities are illegal and arbitrary. As per law declared, even unregistered sale deeds cannot be locked if they relates to prior to 1970.

- vi) The Revision Petitioner reserves the right to file additional grounds at the time of arguments with the leave of the Government.
- vii) The other grounds raised before the first Appellate Authority may be treated as part and parcel of the grounds of the Revision.

Therefore, the following grounds made before the appellate authority are taken as part of grounds to this Revision Petition also:

- vii) The 1st respondent (i.e. Agency Divisional Officer, Kothagduem) failed to consider that the appellant's husband's name i.e. Theerthala Venkateswarlu was entered in the land revenue records i.e. adangal pahanies in the year 1970-71 and appellant's name was entered for the year 1974-75, 1978-79 and thereafter till the year 2015-16 where it shows that the family members of the appellant's name was shown as possessor of the said lands which is evidenced that the appellant is in possession of the aforesaid lands. Without considering the said facts and ignoring the aforesaid documentary evidence, t4he 1st respondent passed ejectment order dated 07.05.2016 in LTR No.3/2014/Kmpl in contravention of the provisions of the APSALTR 1 of 1959 as amended by Regulation 1 of 1970 and the said order is liable to be set aside.
- viii) The 1st respondent failed to consider the fact that the appellant filed land cist receipts for different years to show that she is paying land cist to the Government for the aforesaid lands. The 1st respondent admitted in his order that the appellant produced land cist receipts fore various years and do not express any negative view on the said land cist receipts and passed the ejectment order dated 7.5.2016 without examining the material evidence available on record.
- ix) The 1st respondent committed grave illegality in passing order dated 7.5.2016 against the appellant and wrongly presumed that the said sale deed dated 22.05.1968 is created before the year 1970 is false and untenable. In fact, the appellant purchased the aforesaid landed property in the year 1968 from his vendors much prior to the commencement of the Regulation 1 of 1970. Without considering the aforesaid facts, the 1st respondent without any basis and examination of records, wrongly came to conclusion that the sada sale deed dated 22.05.1968 is created and passed order dated 7.5.2016 is illegal and liable to be set aside and the aforesaid purchase of land do not hit by Regulation 1 of 1959 as amended by Regulation 1 of 1970.
- x) The 1st respondent ought to have considered the settled principles of law that the transactions between non-tribals, which were
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completed prior to coming into force the commencement of Regulation 1 of 1970 and as such the transactions before Regulation 1 of 1970 is a valid transaction. Unfortunately, the 1st respondent ignoring the settled principles of law, passed ejectment order dated 7.5.2016 in contravention of provisions of LTR 1 of 1959 as amended by Regulation 1 of 1970.

- xi) The 1st respondent committed error in not considering the full bench judgement of the Hon'ble High Court of Judicature of Andhra Pradesh where the Hon'ble Court held that the transactions between non-tribals prior to Regulation 1 of 1970 are valid and recognized by law even though any transactions are done through sada sale deeds. Unfortunately, the 1st respondent did not consider settled law laid down by the Hon'ble High Court and wrongly passed ejectment order dated 7.5.2016, is bad in law and liable to be set aside.

9. Along with the Revision Petition, the petitioner has submitted the following documents:

- i) Copy of lower court order i.e. Agency Divisional Officer, Kothagudem in LTR Case No.3/2014/Kmpl, dated 7.5.2016 (showing ejectment for an extent of acs.6.38 gts in Sy.No.57/A + acs.8.22 gts in Sy.No.58 = total acs.15.20) situated in Mucharla village of Kamepalli Mandal, Khammam District.
- ii) Copy of Appeal filed before the Appellate i.e. Addl. Agent to Government-cum-Project Officer (ITDA), Bhadrachalam, Khammam District under Section 3 (3) (a) (ii) of APSALTR 1 of 1959 as amended by Regulation 1 of 1970.
- iii) Copy of Appellate court order in CMA No.28/2016, dt.24.3.2020 (i.e. Addl.Agent to Govt. Bhadrachalam).
- iv) Copy of pahani for the year 1970-71 – Mucharla village – Kamepalli Mandal – issued by Naib Tahsildar, Kamepalli (M), Khammam (Dt) TS –

Sy.No.57/AA for an extent of acs.13.35 gts – showing name of Siripurapu Ramakrishnaiah S/o Chandraiah (in Col.No.11 i.e. Kabjadar) – **names of both Siripuram Ramakrishnaiah and Theertala Venkateswarlu (husband of Teertala Ratnamma – revision petitioner herein) was found for an extent of acs.7.16 + acs.6.19 respectively in Col.No.16 i.e. under actual cultivation.**

Sy.No.58 for an extent of acs.17.05 gts – showing name of Siripurapu Ramakrishnaiah S/o Chandraiah (in Col.No.11 i.e. Kabjadar) – **names of both Siripurapu Ramakrishnaiah and Theertala Venkateswarlu (husband of Teertala Ratnamma revision petitioner herein) was found for an extent of acs.8.22 and acs.8.23 respectively in Col.No.16 i.e. under actual cultivation.**

- v) Copy of pahani for the years 1974-75, 1975-76 – Mucharla village – issued by Naib Tahsildar, Kamepalli (M), Khammam (Dt) T.S.

Sy.No.57/A – total extent shown acs.13.35 – In Col.No.11 i.e.

Kabjadar – Siripurapu Ramakrishnaiah S/o Chandraiah – **In Col.No.16 i.e. under actual cultivation – name of Theertala Ratnamma W/o Venkateswarlu – khareedu.**

Sy.No.58 – total extent shown acs.17.05 – In Col.No.11 i.e. Kabjadar – Siripurapu Ramakrishnaiah S/o Chandraiah – **In Col.No.16 i.e. under actual cultivation – name of Theertala Ratnamma W/o Venkateswarlu for an extent of acs.8.23 gts.**

- vi) Copy of pahani for the year 2000-01 – Mucharla village – issued by Naib Tahsildar, Kamepalli (M), Khammam (Dt) TS.

Sy.No.57/AA – total extent shown acs.13.35 – in Col.No.12 i.e. Khatadar/Pattedar – name of Siripurapu Ramamma W/o Ramakrishnaiah was found while in cultivation column (enjoyer column No.13) names of 1) Siripurapu Posaiah S/o Ramakrishnaiah for acs.1.30 2) Baburao S/o Ramakrishnaiah for acs.1.29 3) Siripurapu Satyanarayana S/o Ramakrishnaiah for acs.1.29 4) Siripurapu Venkateswarlu S/o Ramakrishnaiah for acs.1.29 were shown as inherited and 5) name of Theeratla Ratnamma W/o Venkateswarlu was shown for an extent of acs.6.38 as Krayam.

Similarly, for Sy.No.58 – total extent shown was acs.17.05 – name of Siripurapu Ramamma W/o Ramakrishnaiah was found in Col.No.12 i.e. Khatadar/Pattedar while in enjoyer column No.13 – names of 1) Siripurapu Posaiah S/o Ramakrishnaiah for acs.2.05 2) Siripurapu Baburao S/o Ramakrishnaiah for acs.2.06 3) Siripurapu Satyanarayana S/o Ramakrishnaiah for acs.2.06 4) Siripurapu Venkateswarlu S/o Ramakrishnaiah for acs.2.06 were shown as inherited and 5) name of Smt.Theertala Ratnamma W/o Venkateswarlu for an extent of acs.8.22 under Krayam.

- vii) Copy of pahani for the year 2018-19 – Mucharla village – issued by Naib Tahsildar, Kamepalli (M), Khammam (Dt) TS.

Sy.No.57/AA – total extent shown was acs.12.05 in Khata No.412 – name of Siripurapu Babu Rao S/o Ramakrishnaiah, Siripurapu Sathamaiah and Siripurapu Venkateswarlu were shown in Col.No.12 i.e. Khatadar/pattedar while in enjoyer column No.13 – names of 1) Siripurapu Babu S/o Ramakrishnaiah for acs.1.29 2) Siripurapu Satyanarayana S/o Ramakrishna for acs.1.29 3) Siripurapu Venkateswarlu S/o Ramakrishna for acs.1.29 (as inherited) were shown and 4) name of Smt.Teertala Rathamma W/o Venkateswarlu was shown for an extent of acs.6.38 as Krayam.

Sy.No.58 – total extent shown was acs.15.00 in Khata No.412 – in Col.No.12 i.e. Khatadar/Pattedaer – names of Siripurapu Baburao, Siripurapu Sathamaiah and Siripurapu Venkateswarlu were shown and in Col.No.13 i.e. enjoyer column – names of 1) Siripurapu Baburao S/o Ramakrishnaiah for acs.2.06 2) Siripurapu Satyanarayana S/o Ramakrishnaiah for acs.2.06 3) Siripurapu Venkateswarlu S/o Ramakrishnaiah for acs.2.06 were shown and

- 4) name of Theertala Ratnamma W/o Venkateswarlu was shown for acs.8.22 as Krayam.
- viii) Cist receipts dt.12.12.1968, 24.1.1970, 17.4.1970, 27.6.1971, 3.1.1971, 19.1.1973, 5.1.1975, 29.1.1983, 6.1.1986, 7.11.1988, 2.3.1994.
- ix) Xerox copy of sale agreement dated 22.5.1968 on Stamp paper worth 1 Re 50 nP – Sl.No.502, date of purchase 29.5.1967 – purchased by Siripurapu Chandraiah S/o Seetaiah for sale of immovable property worth Rs.3000/- – executed by Siripurapu Chandraiah S/o Seetaiah R/o Vutukuru village of Khammam Taluq, Khammam District – in favour of Theeratala Ratnamma W/o Venkateswarlu R/o Mucharla village of Khammam Taluq, Khammam District – Sy.Nos.57 and 58 – extent acs.15.02.
- x) Extract of Section 2 (a) from Agency Laws in Andhra Pradesh:
- “Section 2 (a) – Where a transfer of immovable property is made in contravention of sub-section (1), the Agent, the Agency Divisional Officer or any other prescribed Officer may, on application by any one interested, or on information given in writing by a public servant, or suo motu decree ejectment against any person in possession of the property claiming under the transfer, after due notice to him in the manner prescribed and may restore it to the transferor or his heirs.
- xi) **Citations**
- i) **Copy of AIR 1982 Andhra Pradesh 1 – Full Bench – Ramachandra Rao, Raghuvir and Ramanujulu Naidu, JJ. – Gaddam Narsa Reddy and others, Petitioners v. Collector, Adilabad Dist and others, Respondents.**
- Writ Petn.No.4204 of 1977 and W.A.Nos.64, 68 and 231 of 1979 and A.A.O.No.151 of 1979, Dt.21.8.1981.**
- (A) A.P.Scheduled Areas Land Transfer Regulations (I of 1959) (as amended by Regulations 2 of 1963 and 1 of 1970), S.3 – Applicability – S.3(1) is not retrospective in operation – Transfer of land by Tribal to non-tribal prior to commencement of the Regulation – Dispute as to – Cannot be adjudicated by Authorities under S.3(2).
- Section 3 (1) of the Regulation I of 1959 and its amendments by Regulation II of 1963 and I of 1970 have no retrospective operation and do not affect transfers made prior to the said Regulation or its amendments coming into force and the authorities under S.3(2) of the Regulation have no jurisdiction to pass orders in relation to the immovable property, covered by such transfers.
- The validity or otherwise of the transfers made prior to S.3 (1) or its amendments by Regulation II of 1963 or I of 1970, coming into force, cannot be adjudicated upon under S.3(2) of the Regulation and the same has to be

challenged in an appropriate forum constituted for deciding disputes relating to immovable property situated in Scheduled Areas (1976) 2 AP LJ (HC) 212 and W.P.No.776 of 1970, dt.24.8.1971 (Andhra Pra), Approved. (Paras 28, 29, 31, 32).

(C) **Interpretation of Statutes – Retrospective operation – Presumption when arises.**

Every statute is prima facie prospective unless if it is expressly or by necessary implication made to have retrospective operation. Unless there are words in the statute manifesting an intention to affect existing rights, it shall be deemed to be prospective in operation. Every statute which takes away or impairs vested rights acquired under existing laws or creates new obligation, or imposes a new duty, or attaches a new disability in respect of past transactions, must be presumed to be intended not to have a retrospective effect, and a statute or a section in it is not to be construed so as to have larger retrospective operation than its language renders necessary. The question whether the statute or any provision in it has retrospective operation has to be determined with reference to the dominant intention of the legislature to be gathered from the language used, the object and the scheme of the Act, the nature of the rights affected and the circumstances under which the statute came into being.

- ii) **1999 (6) ALT 174 – IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD – The Hon’ble Mr. Justice B.S. Raikote** – Writ Petition Nos. 5684 of 1988 and 15544 of 1989 – Decided on 27-9-1999 – Kola Mahalaxmi and another (Petitioners) vs. Agent to Government, Khammam and others (Respondents).

A.P.SCHEDULED AREAS LAND TRANSFER REGULATION, 1959, Regulation 3 (1) – Applicability of – Transfer of lands in scheduled area – Lands situated in Telangana area – Regulation made applicable to the said area from 1-12-1963 – Authorities under the Act not having jurisdiction to pass orders in respect of transfers made prior to coming into force of the said Regulation – Even if transfers were made under unregistered sale deeds, authorities under the Regulation have no power to go into validity of such transfers – That is a matter for consideration by competent Court in appropriate proceedings – Transfers in question made prior to coming into force of the Regulation – Orders passed setting aside the said transfers made by unregistered sale deeds – Illegal and without jurisdiction – Regulation is prospective in nature and does not affect past transactions.

10. In the reference 2nd read above, Government has admitting the

Revision Petition and rejecting the stay prayed for by the petitioner and copy of the Revision Petition has been sent to the Additional Agent to Government, Bhadrachalam and requested to send original record and para-wise remarks.

11. The Revision Petitioner Smt.Theerthala Ratnamma W/o Venkateswarlu has also filed WP No.11578 of 2020 in the Hon'ble High Court praying to issue interim direction to the respondent not to interfere with the possession and enjoyment of the petitioner in Sy.No.57/A and 58 to an extent of Acs.15.20 guntas situated at Mutcherla village, Kamepally Mandal, Khammam District duly suspending the orders passed by the Government in Memo.No.560/TW.LTR/2020, dt.14.7.2020 communicated on 17.7.2020 in rejecting the Stay Application, pending disposal of WP No.11578 of 2020.

12. In the reference 3rd cited, the Hon'ble High Court in its order dt.6.8.2020 in IA No.1 of WP No.11578 of 2020 while directing issue of notice to the Respondents viz., 1) State of Telangana rep by its Principal Secretary, Tribal Welfare Dept., Telangana Secretariat, Hyderabad 2) The Agency Divisional Officer, Kothagudem District 3) The Tahsildar, Kamepally, Kamepally Mandal, Khammam District 4) Sirupurapu Chandraiah S/o Seethaiah R/o Mutcherla village, Kamepally Mandal, Khammam District and 5) The Additional Agent to the Government, Bhadrachalam, Bhadradi Kothagudem District) made the following ORDER:

"Heard learned counsel for the petitioner and learned Government Pleader for Social Welfare and perused the material on record.

It is brought to the notice of this Court that the impugned order dated 14.07.2020, rejecting the stay application, while admitting the revision petition filed by the petitioner, has been passed by the 1st respondent authority, without even affording an opportunity of personal hearing to the petitioner, or his counsel, through whom the said revision and the stay application have been filed.

It is further brought to the notice of this Court that, this Court, by order dated 26.06.2020 passed in W.P.No.9174 of 2020, directed the 1st respondent authority to dispose of the stay application filed by the petitioner in the revision preferred, within a period of four weeks from the date of receipt of the said order, *"after affording an opportunity of hearing to the petitioner"*.

However, a perusal of the impugned order, does not reflect that either the petitioner or his counsel through whom the said revision has been filed, having been granted an opportunity of hearing, as directed by this Court, while disposing of the stay application.

Learned Government Pleader for Social Welfare, appearing for respondent Nos.1 to 3 and 5, vehemently opposes the submission made by the learned counsel for the petitioner and states that the 1st respondent authority, while admitting the revision petition, has taken into consideration the order passed by the 5th respondent authority and did not find merit for grant of stay and has rejected the same.

However, the said submission made by the learned Government Pleader does not appeal this Court for being accepted.

In view of the above, there shall be interim direction as prayed for.

Post on 09.09.2020.”

13. As cited in the above order dt.6.8.2020, it has been noted from the earlier order passed by the Hon’ble High Court dt.26.6.2020 in WP No.9174 of 2020 that “Having regard to the submission made as above and considering the fact that the petitioner has already filed revision application before the 1st respondent authority against the order passed by the 5th respondent authority within the time permitted under the Regulation and also having filed stay application seeking stay of operation of the impugned order in the revision preferred, this Court is of the view that the 1st respondent can be directed to dispose of the stay application filed by the petitioner within a period of four weeks from the date of receipt of a copy of this order, after affording an opportunity of hearing to the petitioner. Till such time the 1st respondent takes up the stay application for hearing and adjudicate thereon, the 3rd respondent authority viz., Tahsildar, shall not give effect to the order of the 5th respondent authority passed in CMA No.28/2016. Subject to the above direction, the Writ Petition is disposed of. No order as to costs. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.” In the reference 6th cited.

14. In the reference 4th cited, the Project Officer, ITDA & Addl. Agent to Govt. Bhadrachalam in his Lr.Rc.No.A5/225/LTR/2020 (CMA No.28/2016), dated 17.08.2020 has submitted the following para-wise remarks:

- The contention of the petitioner to say that the impugned orders are contrary to law and probabilities of the case is not correct and far from truth. The Addl. Agent to Govt. Bhadrachalam (4th respondent herein) passed orders properly and rightly according to the provisions made under AP (SA) LTR 1/59 as amended by the Regulation 1/70, as the appellant (petitioner herein) failed to produce the documents required to prove his claim made under appeal.

The appellant (petitioner herein) has filed only the documents such as:

1. Copy of orders in LTR case No.3/2014/Kmpl dated 07.05.2016 of the Agency Divisional Officer, Kothagudem (1st respondent herein).
2. Xerox copy of sada sale ded dated: 22.05.1968.
3. Xerox copies of Adangal pahanies for the year 1970-71, 1974-75, 1974-75 & 1978-79.
4. Xerox copies of land revenue cist receipts.

As verified from the original pahanies, the appellant (petitioner herein) has not entered into revenue records before 1970 to prove that she has purchased the scheduled land through sada sale deed dated 22.05.1968. However, the sada sale deed is not acceptable to substantiate evidence under section 17 (B) of Registration Act. The documents which are necessarily to be registered, but not registered are not admissible in evidence and such documents can be used for collateral purpose only.

(Mohammed Rasool versus Secretary, Social Welfare Dept., Govt. of Andhra Pradesh in W.P.No.9429/1989 dated: 19.08.1998 (High Court of A.P. un-reported).

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- The appellant (petitioner herein) failed to establish locus standi as claimed under appeal.
- Hence, the appeal filed by the appellant (petitioner herein) has been dismissed upholding the orders passed by the lower court, Agency Divisional Officer, Kothagudem.
- As regards the authorities under the regulation have no power to initiate the LTR proceedings, if the transfers taken place prior to regulation 1970, the contention of the petitioner is not correct – APSA LTR Sec.3 – the agreement of sale alleged to have been entered on 03.05.1960 on a stamp paper denomination of Rs.1.50 which was stated as (vkraaya patram) which was held to be a sale deed and therefore in violation of section-54 of transfer of property Act since it was not registered, though it was pleaded on behalf of the non-tribals that the sale has been taken place prior to the commencement of the regulation, but the fact findings authorities gave a clear finding on the basis of revenue records and the non-tribals that the sale was after the commencement of the regulation and the non tribals came into possession according to the evidence on record only after the commencement of the regulation. Held, therefore that the alleged transaction took place after the commencement of the regulation sale was hit by the regulations and accordingly was illegal and void. (Vaddi Veeraiah v/s Agent to Government Khammam & other 1996 (1) ALD 107 (DB).
- The another contention of the petitioner is that in addition to that the land revenue receipts from the date of purchase and pahani copies produced amply establishes that the land was purchased prior to the regulation came into force is also not correct. The land revenue cist receipts which do not have any credibility and legal sanctity and value in the eye of law. The alleged pahani extracts for the year 1970-71, 1974-75 & 1978-79 which filed along with appeal filed by the appellant (petitioner herein) are no way useful to prove the possession over the scheduled land by the petitioner herein before the cutoff date and also not find entered the name of the petitioner in the Revenue records before 1970.
- In the circumstances of the case above, the revision petition filed by the petitioner before the Government (TW) Dept. is not maintainable having no valid and tenable grounds to grant any relief prayed therein and liable for dismissal.

15. In the reference 10th cited, the Addl. Agent to Govt.& Project Officer, ITDA, Bhadrachalam has submitted the case record in CMA No. 28/2016.

16. In the reference 11th cited, the counsel for petitioner has submitted the following Written Arguments on 9.2.2021

- The Revision Petitioner is the absolute owner and possessor and enjoyer of the agricultural landed property admeasuring Ac.15.20 guntas covered under Survey No.57/A and 58 to an extent of Ac.6.38 and Acs.8.22 guntas total extent of 15.20 acres. Originally the land belongs to Sirupurapu Chandraiah who is the pattedar from whom on 22.5.1968 the Revision Petitioner purchased for a valid sale consideration of Rs.3,000/-. From the said date onwards the petitioner is in possession and enjoyment by raising continuously crops. The Revision Petitioner paid land revenue and her name was also mutated in the Revenue

(Contd....15)

Records. While it being so the suo moto LTR case No.3/2014 in Kamepally was registered treating the transfer of immovable property taken place after 3.2.1970. For the above ground there is no evidence or material. The petitioner was asked to submit explanation. The petitioner attended the enquiry at the LTR authority and produced Sada Sale deed dt.22.5.1968. The petitioner produced cist receipts for the year 1968, 1970, 1971, 1973, 1975, 1982, 1983, 1984, 1985, 1986, 1989, 1990, 1991, 1993, 1994. Pahani covered from 1968, 1970, 1973, 1974, 1975, 1976, 1978, 1979, 2011-12, 2015-16 in respect of the above Survey Numbers was filed before the Lower Authorities. In the Pahani 1969-70 in the enjoyer column was not recorded for the entire village of Mutchlerla. For the pahani year 1970-71 the name of husband of the petitioner was recorded as enjoyer column for Survey No.58. For Sy.No.57/AA name of the petitioner was recorded as enjoyer. For the same year Sy.No.58 the name of the petitioner's husband was recorded as enjoyer. Similarly the same entries were made for the year 1975-76. For the year 2000-01 in respect of Sy.No.57/AA the name of the petitioner was recorded as enjoyer even for Sy.No.58 her name was recorded as enjoyer. For the year 2018-19 petitioner's name was recorded as enjoyer for both the Sy.Nos.

- Based on presumptions and assumptions without there being any material relying upon Registration Act, LTR authority passed orders of rejection on 7.5.2016. CMA was filed before the Project Officer i.e., Additional Agent to Government, raising several grounds. Without considering any of grounds the Appellate Authority by non speaking order rejected the appeal on 24.3.2020. Copy was communicated on 20.5.2020.
- As per Full Bench judgement AIR 1982 AP 1 in respect of transfers prior to 3.2.1970 LTR authorities have no jurisdiction to entertain any LTR case. Even in respect of Sada Sale Deed also as per the law laid down by the High Court reported in 1999 (6) ALT 174 LTR authorities cannot entertain LTR case if the transfers are prior to 3.2.1970.
- As per the law laid down by the High Court in 2005 (6) ALD 127 after passing rejection orders either by the Primary Authority or by Appeal Authorities unless Execution Petition is filed following the provisions of CPC, unless there is an order passed for Execution of the Decree, the question of conducting Panchanama and taking over the possession does not arise.
- Since both the Lower Authorities passed orders without power and jurisdiction in view of judgements referred above, the orders are to be declared as null and void and without any authority under law.
- Further, in respect of Mutchlerla Village, Revenue Authorities not recorded the name for the year 1969-70 – under RTI the Revision Petitioner obtained information from the Tahsildar Office and copy of the same is filed along with Written Arguments.
- In view of the above facts and circumstances the Revision Petition is to be allowed in the interests of justice.

16. The counsel for petitioner has also submitted the following documents along with the Written Arguments:

- i) **1996(6) ALT174 (Citation) – Judgement by the Hon’ble Mr.Justice B.S.Raikote in Writ Petition Nos.5684 of 1988 and 15544 of 1989 on the file of the Hon’ble High Court of Judicature, Andhra Pradesh at Hyderabad – Decided on 27.9.1999 – Kola Mahalaxmi and another (Petitioners) vs. Agent to Government, Khammam and others (Respondents) – related to Regulation 3 (1) – Applicability of – Transfer of lands in scheduled area – Lands situated in Telangana area – Regulation made applicable to the said area from 1-12-1963 – Authorities under the Act not having jurisdiction to pass orders in respect of transfers made prior to coming into force of the said Regulation – Even if transfers were made under unregistered sale deeds, authorities under the Regulation have no power to go into validity of such transfers – That is a matter of consideration by competent Court in appropriate proceedings – Transfers in question made prior to coming into force of the Regulation – Orders passed setting aside the said transfers made by unregistered sale deeds – Illegal and without jurisdiction – Regulation is prospective in nature and does not affect past transactions.**
- ii) **2005 (6) ALD 127 – IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD – C.Y.SOMAYAJULU, J. – Eighth Day of September, 2005 – WP No.3586 of 1996 – Narapareddy Bujjamma v. District Collector, Nellore District and others.**
- iii) **Copy of adjacent landlord’s statement dt.07.08.2020: This is a sworn-in statement by 1) Teerthala Ratnamma 2) V.Biksham 3) B.Biksham and 4) V.Ramakrishna – recorded by the revenue officials i.e. VRO Mutcherla, Girdawar-I, Kamepalli and attested by the Naib Tahsildar, Kamepalli Mandal – wherein they deposed that on the request of Mandal Girdawar-I, Kamepalli they came to agricultural land in Sy.No.57/A and 58 admeasuring acs.15.20 on 7.8.2020 at 11.00 AM and stated that Sri Teerthala Ratnamma is cultivating the land since 52 years.**
- iv) **Memo.Rc.No.A/46/2021, dt.18.1.2021 issued by Dy.Tahsildar, Kamepalli (M), Khammam Dist. – wherein it was asserted that in some of the pahanies of 1968-69 and 1969-70 names were not entered in the enjoyers column.**

17. SYPNOSIS

The lower court i.e. the Agency Divisional Officer, Kothagudem in LTR case No.3/2014/Kmpl in his order dt.7.5.2016 had passed ejectment order for an extent of acs.6.38 gts in Sy.No.57/A + acs.8.22 gts in Sy.No.58 i.e. total acs.15.20 gts situated in Mutcherla village of Kamepalli Mandal in Khammam District against the revision petitioner Sri Teerthala Ratnamma W/o Venkateswarlu R/o Mutcherla village of Kamepalli Mandal, Khammam District, on the following grounds:

- On examination of pahanies, name of Theerthala Ratnamma was not recorded even as enjoyer upto 1973-74 – had she really purchased the land in the year 1968, her name would have been recorded in the pahani. However, her name was incorporated as enjoyer only for 1974-75 with different ink & different writing in Sy.No.57/A and Sy.No.58 by tampering in the revenue records; and as enjoyer for 1978-79 in Sy.No.57/A for acs.8.13 gts & in Sy.No.58 for acs.8.22 gts; for the years 2011-12 & 2015-16 in Sy.No.57/A & 58 for Ac.6.38 gts & 8.22 gts respectively. Thus, it was very clear that the non-tribal respondent had purchased the land after enactment of Regulation I of 1970. The ordinary paper receipts of land revenue have no evidentiary value.
- According to Section 35 of Indian Stamp Act, 1989, a document not affixed with required stamps is not admissible evidence.
- The Hon'ble Supreme Court has held that the immovable property can be legally and lawfully transferred and conveyed only by a registered sale deed of conveyance. Transactions of the nature of General Power of Attorney sales or sale agreements or will transfers do not convey title and do not amount to transfer nor they can be recognized as valid mode of transfer of immovable property (AIR 2012 SCC 206).
- The Hon'ble High Court in CRP No.1087 of 1996 has held that an unregistered sale deed cannot be taken into account while examining the nature of rights under the regulation 1959 read with 1970.
- Hence, the sada sale agreement furnished by the respondent in token of acquisition of land from another non-tribal in the year 1968 is not valid and as per revenue records, land has been acquired after the advenet of Regulation 1 of 1970.
- Hence, it is established that the respondent contravened the section 3 (1) of the APSA LTR 1959 r/w APSA LTR 1970 and came into possession of the land mentioned in the schedule i.e. situated in Mucharla village in Sy.No.57/A & 58 measuring acs.6.38 + 8.22 = total 15.20 acres.

The appellate authority i.e. Addl.Agent to Govt. Bhadrachalam in CMA No.28/2016 has passed the following orders on 24.3.2020:

- Xerox copy of alleged sada sale deed is not acceptable to substantiate evidence U/s.17 (b) of Registration Act.
- The Xerox copies of LR cist receipts filed by the appellant, which does not have credibility, sanctity and value in the eye of law.
- As verified from the original pahanies, the appellant has not entered into Revenue records before 1970.
- Appellant failed to establish locus standi as claimed under appeal. Hence, lower court orders are confirmed.

18. Arguments putforth by the Revision Petitioner:

i) Before the lower court i.e. Agency Divisional Officer, Kothaqudem in LTR case No.3/2014/Kmpl:

- She purchased the schedule property on 22.05.1968 through a sada sale deed from its owner and possessor Siripurapu Chandraiah who is also non-tribal, for a sale consideration of Rs.3,000/- in total which was prevailing at that time and possession was handed over immediately – accordingly land is under her cultivation since 1968.
- The purchase of land from a non-tribal in the year 1968 i.e. much prior to coming into force of amendment 1/70 – as such transaction not hit by provisions of APSA LTR 1/59 R/W 1/70.
- There is no complaint or allegation or claim against the land by any person.
- It is well settled principle of law that the transactions between non-tribals which were completed prior to coming into force of the enactment 1/70 are not affected by the LTR Act 1/70; as such his transaction is also a valid transaction.
- The Full Bench of the Hon'ble High Court of Judicature of AP had laid the law that the transactions between non-tribals prior to 1970 are valid and recognized in law, even though they are carried through sada sale deeds, the validity of such sale deeds cannot be questioned while disposing of the matters under the LTR – therefore, the laid down by the Full Bench of the Hon'ble High Court of AP is applicable in his case also.
- Respondent regularly paying cist to the revenue authorities on his name as owner and cultivator in revenue records. His possession over the said land is uninterrupted, undisturbed and undisputed since 1968 onwards.

ii) Before the appellate authority i.e. Addl.Agent to Govt. & PO ITDA Bhadrachalam in CMA No.28/2016:

- The Respondent ought to have considered that the appellant is the absolute owner, possessor and enjoyer of agricultural landed property admeasuring Ac.15.20 guntas covered by Sy.Nos.57 & 58 situated in Mucharla village of Kamepalli Mandal, Khammam District as the same was acquired through sada sale deed dated 22.05.1968 from Respondent No.2 and since the date of purchase, her family is in possession and enjoyment without any interruption by anyone at any point of time.

(Contd.....19)

- 1st Respondent failed to consider that the appellant's husband's name i.e. Theerthala Venkateswarlu as entered in the pahanies of 1970-71 and appellant's name for 1974-75, 1978-79 and thereafter till 2015-2016. Without considering the said facts and ignoring aforesaid documentary evidence, the 1st respondent passed ejectment order on 7.5.2016.
- 1st Respondent admitted in his order that the appellant produced land cist receipts for various years and do not express any negative view on the said cist receipts and intentionally ignored the said land cist receipts while passing ejectment order dated 7.5.2016.
- 1st respondent wrongly presumed that the sada sale deed dated 22.05.1968 is created before 1970, is false and untenable. In fact, the appellant purchased the property in the year 1968 from his vendors much prior to the commencement of the Regulation 1 of 1970. Without considering the aforesaid facts and without any basis and examination of records, wrongly came to conclusion that the sada sale deed dated 22.05.1968 is created.
- 1st Respondent ought to have considered the settled principles of law that the transactions between non-tribals completed prior to coming into force the commencement of Regulation 1 of 1970 are valid.
- 1st Respondent committed error in not considering the full bench judgement of the Hon'ble High Court of Judicature of Andhra Pradesh wherein the Hon'ble High Court held that the transactions between non-tribals prior to Regulation 1 of 1970 are valid and recognized by law even though any transactions are done through sada sale deeds.

iii) **Before the Government in the present Revision Petition:**

- Section 3 of the APSALTR 1/59 and its Amendment 1/70 prohibits transfer of immovable property after Regulation came into force. From the said date, if any transfer of immovable property taken place in the scheduled area after 3.2.1970 by one non-tribe to another non-tribe, the authorities constituted under Regulation i.e. Agency Divisional Officer or any other officer authorized can pass orders for ejectment and restore the property to the transferor or his/her heirs by following the procedure. Full Bench of the Hon'ble High court reported in AIR 1982 AP (1) declared that the authority constituted under the Regulation have no power to initiate LTR proceedings if the transfers taken place prior to 1/70 Regulation. In the instant case, produced sale deed dt.22.5.1968 – though the same is not registered, the question of going into validity of the said beyond the power and jurisdiction of the authorities constituted.
- In addition to the above, the land revenue receipts from the date of purchase and pahani copies produced amply establish that the land was purchased prior to the regulation came into force. Failure to consider the said important issue and giving findings based on presumptions and assumptions render the entire orders passed by the primary authority and appellate authority, is illegal and arbitrary.

- Both the primary and appellate authorities not conducted enquiry in respect of lands in question independently even to know the facts as the petitioner is in possession right from 1968 duly raising agricultural crops which fact the authorities are bound to take into consideration rather than going on presumptions and assumptions.
- The finding given by the lower court that unregistered document cannot be given any weightage and totally illegal. As per definition under Section 2 of 1/59, the word "transfer" includes agreement of sale, therefore, any dealing with immovable property either by sale or otherwise which includes unregistered sale is one of the recognized mode and therefore, since the sale deed is very much prior to commencement of regulation the entire orders passed by both the authorities are illegal and arbitrary. As per law declared, even unregistered sale deeds cannot be locked if they relate to prior to 1970.
- The petitioner produced cist receipts for the years 1968, 1970, 1971, 1973, 1975, 1982, 1983, 1984, 1985, 1986, 1989, 1990, 1991, 1993, 1994. Pahani covered from 1968, 1970, 1973, 1974, 1975, 1976, 1978, 1979, 2011-12, 2015-16 were filed before the lower authorities.
- In the Pahani 1969-70 in the enjoyer column was not recorded for the entire village of Mucherla – for the year 1970-71n name of husband of petitioner was recorded in enjoyer column for Sy.No.58 and for Sy.No.57/A name of petitioner was recorded as enjoyer. For the same year Sy.No.58 name of petitioner's husband was recorded as enjoyer. Similarly same entries were made for 1975-76. For the year 2000-01 in respect of Sy.No.57/A name of petitioner was recorded as enjoyer even for Sy.No.58. For the year 2018-19, petitioner's name was recorded as enjoyer for both the survey numbers.
- As per Full Bench Judgment AIR 1982 AP 1 in respect of transfers prior to 3.2.1970, LTR authorities have no jurisdiction to entertain any LTR case. Even in respect of sada sale deed also as per the law laid down by the High Court reported in 1999 (6) ALT 174 LTR authorities cannot entertain LTR case if the transfers are prior to 3.2.1970.
- Further, in respect of Mucherla villager, Revenue authorities not recorded name for the year 1969-70 – under RTI the Revision Petitioner obtained information from the Tahsildar office and copy of the same is filed along with the written arguments.
- Since both the lower authorities passed orders without power and jurisdiction in view of judgements referred above, the orders are to be declared as null and void and without any authority under law.

19. Now the issues that arise for adjudication before the Government are:

- i) Whether the Revision Petitioner is in possession and enjoyment of lands in Sy.Nos.57/A and 58 for the extents of acs.6.38 gts and acs.8.22 gts. respectively (total acs.15.20 gts) from 1968 onwards?
- ii) Whether the sada sale agreement dt.22.5.1968 is valid in the eye of law or not?

For point (i):

The pahanies issued by the revenue authorities from 1970 onwards, land revenue receipts from the years 1968 onwards, the fact that certain names were not recorded in the pahanies of 1968-69, 1969-70 in Mucherla (as informed by the revenue authorities vide Memo.No.A/46/2021, dt.18.1.2021) and statements of the neighbouring landholders recorded by the revenue authorities on 7.8.2020, clearly speak about possession and enjoyment of the Revision Petitioner right before the Regulation I of 1970 came into force i.e. from 1968, as all these are corroborating documentary evidences.

For point (ii)

The Full Bench of the Hon'ble High Court in WP No.4204 of 1977 and WA Nos. 64, 68 and 231 of 1979 and AAO No1.51 of 1979, dt.21.8.1981 held that Section 3 (1) of the Regulation I of 1970 is not retrospective in operation and cannot be adjudicated by the authorities under Section 3 (2) of the Regulation. The summary of the decision is as follows:

- (1) A transfer of immovable property situated in agency tracts, made after the coming into force of the A.P.Scheduled Areas Land Transfer Regulation I of 1959 or its amendment Regulation II of 1963 or Amendment Regulation I of 1970, even if made in compliance with the provisions of the Transfer of Property Act, Indian Registration Act or Hyderabad Tenancy and Agricultural Lands Act or any other law applicable thereto, is null and void, if it contravenes the provisions of S.3(1) of the Regulation I of 1959 or its amending regulations, and under S.3(2) of the said Regulation, the authorities mentioned therein can decree ejectment of the persons claiming under such transfer and pass orders restoring the lands to the transferors or their successors or pass orders for disposing of the said property as directed therein.
- (2) Section 3 (1) of the Regulation I of 1959 and its amendments by Regulation II of 1963 and I of 1970 have no retrospective operation and do not affect transfers made prior to the said Regulation or its amendments coming into force and the authorities under Section 3 (2) of the Regulation have no jurisdiction to pass orders in relation to the immovable property covered by such transfers.
- (3) The validity or otherwise of the transfers made prior to S.3(1) or its amendments by Regulation II of 1963 or I of 1970 coming into force, cannot be adjudicated upon under S.3(2) of the Regulation and the same has to be challenged in an appropriate forum constituted for deciding disputes relating to immovable property situated in Scheduled Areas.

Para 32. Applying the said conclusions to the facts of the present case, the transfers in WP No.4204/77 having been made prior to the coming into force of the Regulation, they do not contravene

(Contd.....22)

the provisions of Section 3 (1) and, therefore, the Special Deputy Collector, Tribal Welfare or the District Collector-cum-Agent to the State Government have no jurisdiction to pass orders under S.3(2) of the said Regulation declaring the said transfers as null and void.

Para 33. Accordingly, the Writ Petition W.P.No.4204/77 is allowed and the impugned order is quashed, but in the circumstances, without costs. Advocate's fee Rs.150/-.

Writ Appeals Nos. 64/79, 68/79, 231/79 and CMA 151/79.

Para 34. These appeals will be posted before the Division Bench for disposal in the light of opinion rendered by us on this reference.

20. The counsel for petitioner also cited another settled legal position declared by the Hon'ble High Court in WP Nos.5684 of 1988 and 15544 of 1989 decided on 27.9.1999 (Kola Mahalaxmi and another vs Agent to Government, Khammam and others) – wherein the Hon'ble High Court has declared that the Regulation made applicable to Telangana area from 1.12.1963 and authorities under the Act not having jurisdiction to pass orders in respect of transfers made prior to coming into force of the said Regulation including the transfers that were made under unregistered sale deeds.

21. Further, as per Section 17 clause (g) (inserted by A.P. Act 4 of 1999), the agreement of sale of immovable property of the value of one hundred rupees and upwards requires registration w.e.f. 1.4.1999 as also held by the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in Civil Revision Petition No.4066 of 2016, dt.30.11.2016 – operative portion of which is as follows:

“The main and very first requirement of law to file a suit for Specific Performance of an agreement of sale is that there should be a valid agreement of sale in view of A.P. State amendment by incorporating clause (g) to Section 17 (1) of the Registration Act, 1908, with effect from 01.04.1999. As per the said amendment all agreements of sale of immovable property worth more than Rs.100/- compulsorily be registered.”

22. In the present case, the transaction took place in the year 1968 through agreement of sale dated 22.5.1968 which is much prior to enactment of Act 4 of 1999 and hence, does not require registration mandatorily as the said Act came into force from 01.04.1999. Moreover, the grounds and arguments made in the Revision Petition are buttressed by corroborating documentary evidences confirming possession and enjoyment of the Revision Petition in the land under dispute much before the advent of the Regulation I of 1970.

23. Therefore, Government after careful examination of the case in detail with reference to the material evidences available on record and other documentary evidences submitted by the revision petitioner before the Government in Revision and with Written Arguments and in the light of the corroborating documentary evidences as discussed for issue at point (i), having due respect & credence to the settled legal positions, clause (g) of Section 17 (1) of the Registration Act, 1908 discussed under point (ii),

(Contd.....23)

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hereby allow the Revision Petition filed by Smt.Theerthala Ratnamma W/o Venkateswarlu R/o Mutcherla (v) of Kamepally Mandal, Khammam District to the extent of land admeasuring acs.6.38 gts in Sy.No.57/A and acs.8.22 gts in Sy.No.58 (Total extent Acs.15.20 gts) situated in Mucharla village of Kamepalli Mandal, duly setting aside orders of both the lower and appellate courts in LTR case No.3/2014/Kmpl, dt.7.5.2016 of Agency Divisional Officer, Kothagudem and CMA No.28/2016, dt. 24.3.2020 of Addl.Agent to Government & PO ITDA Bhadrachalam respectively.

24. The original case records received in the reference 10th read above are returned herewith to the Addl.Agent to Govt. & Project Officer, ITDA Bhadrachalam, Bhadradi Kothagudem District and requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

**Dr. CHRISTINA Z.CHONGTHU
SECRETARY TO GOVERNMENT**

To

1. Smt. Theerthala Ratnamma W/o Venkateswarlu,
R/o. H.No. 1-39, Mutcherla village, Kamepalli Mandal,
Khammam District (Revision petitioner).
2. The Additional Agent to Government & Project Officer, ITDA
Bhadrachalam, Bhadradi Kothagudem District (w.e.) (BY RPAD)

Copies to:

1. The Agency Divisional Officer, Kothagudem,
Bhadradi Kothagudem District.
2. The Tahsildar, Kamepalli Mandal, Khammam District. .
3. M/S. P.V. Ramana, E.R. Savithri, B.Sravan Kumar, Advocates,
Flat No. 1, Banjara Sangeet Apartments, Kapadiya Line,
Hyderabad-82 (Counsel for Revision Petitioner)
4. Sri Thimapurapu Chandraiah, S/o. Seethaiah, Mutcherla (V),
Kamepally (M),Khammam District.
5. The PS to Hon'ble Minister for ST Welfare, W&CW.
6. The PS to Secretary (TW)
7. The PS to Special Secretary (TW)
8. SF/SC

//FORWARDED:: BY ORDER//

SECTION OFFICER